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March 21, 2018

The Honorable Brendan Carr  
Commissioner  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Commissioner Carr:

This letter is to urge you to reconsider your proposed order that would eviscerate the critical environmental and transparency protections created by the National Environmental Policy Act (NEPA). The justification for your proposed order's attack on NEPA is lacking. I am particularly puzzled by the dearth of serious discussion in the record regarding the impact of gutting NEPA on local communities, other businesses, and the environment. In addition, the NEPA process also provides an opportunity for input to improve project design and public acceptance. As a Member of Congress, I am committed to pursuing high-speed, universal broadband access, but I believe it foolish to sacrifice public transparency and thoughtful environmental considerations to do so. Without much thought, your proposed order weakens NEPA's transparency framework in the name of efficiency, yet does not include a single enforceable commitment to ensure that broadband providers will actually build more infrastructure.

Since the Federal Communications Commission (FCC) first voted to open this docket, I have feared that it misunderstands NEPA and its purpose. At its root, NEPA requires the government to consider the environmental impact of its actions and encourage public participation in its decision-making process.<sup>1</sup> Testimony before the House Subcommittee on Communications and Technology reveals that often "NEPA gives citizens their only opportunity to voice concerns about a federal project's impact on their community."<sup>2</sup> The Commission's process leading to this proposed order has not adequately considered the benefits of NEPA and its transparency requirements for infrastructure projects. For example, "the NEPA process has

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<sup>1</sup> CRS, *Implementing the NEPA for Disaster Response, Recovery, and Mitigation Projects*, at 2 (Jan. 13, 2011) ("NEPA is a procedural statute with twin aims that require agencies to consider the environmental impacts of their proposed actions and inform the public that environmental concerns have been accounted for in the decision-making process").

<sup>2</sup> House Committee on Energy and Commerce, *Hearing on Closing the Digital Divide: Broadband Infrastructure Solutions*, 115th Cong. (Jan. 13, 2018).

saved money, time, lives, historical sites, endangered species, and public lands while encouraging compromise and resulting in better projects with more public support.”<sup>3</sup>

With such little forethought or discussion in the record, it is baffling to me that your proposed order would completely remove from the NEPA process the foundational infrastructure of our nation’s 5G networks.<sup>4</sup> The hundreds of thousands of small wireless facilities<sup>5</sup> excluded by this proposed order will ultimately be deployed on street corners and light poles across the country,<sup>6</sup> collectively comprising a massive nation-wide infrastructure project. Your proposed order, however, misses the forest for the trees. It only discusses the individual, pizza box-sized, small wireless facilities.<sup>7</sup> The FCC’s record provides not even a cursory analysis of the environmental effects of deploying hundreds of thousands of such facilities across the country.<sup>8</sup> Even the White House provides only superficial and political support for your proposal.<sup>9</sup> The letter filed in the record from President Trump’s Council on Environmental Quality lacks any substantive discussion, and in so lacking, only further delegitimizes the record that produced this proposed order.<sup>10</sup>

For what little is left of NEPA under your proposed order, I question the wisdom of excluding wireless facilities sited in a flood plain from NEPA if they are sited one foot above the base flood height.<sup>11</sup> I understand the proposed order contemplates using local permitting processes as a backstop to ensure wireless facilities will not adversely impact the floodplain.<sup>12</sup> However, local zoning laws are not an adequate substitute for an open and transparent

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<sup>3</sup> *Id.*

<sup>4</sup> *See* note 1 at ¶ 35.

<sup>5</sup> Senate Committee on Commerce, Science, and Transportation, *Hearing on Rebuilding Infrastructure in America: Investing in Next Generation Broadband*, 115th Cong. (Mar. 13, 2018).

<sup>6</sup> *See* note 1 at ¶ 40.

<sup>7</sup> *See e.g.*, note 1 at ¶ 63.

<sup>8</sup> *See id.* at ¶ 55-76.

<sup>9</sup> Letter from Edward A. Boling, Associate Director for NEPA, Council on Environmental Quality to Thomas M. Johnson Jr., General Counsel, Federal Communications Commission (Mar. 9, 2018).

<sup>10</sup> *See id.*

<sup>11</sup> *See* note 1 at ¶ 132.

<sup>12</sup> *Id.* at ¶ 134.

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environmental review afforded by NEPA. I am uneasy with cutting away federal review, given that the Commission may next decide to preempt local authorities' role in siting wireless infrastructure. For that reason, I ask that if you do move forward with this misguided proposed order that you first commit to opposing any future FCC action that would preempt local siting authority.

For those reasons, I ask for your commitment and urge you to reconsider your proposal. I appreciate your assistance with this important matter. I have also enclosed the written testimony of Mr. Scott Slesinger, Legislator Director, Natural Resources Defense Council for inclusion in WT Docket No. 17-76 along with this letter. Should you have any questions regarding this request, please contact Kevin Dollhopf in the Office of Congresswoman Debbie Dingell at (202) 225-4071.

Sincerely,



Debbie Dingell  
Member of Congress

cc: The Honorable Ajit V. Pai, Chairman, Federal Communications Commission  
The Honorable Mignon Clyburn, Commissioner, Federal Communications Commission  
The Honorable Michael O'Rielly, Commissioner, Federal Communications Commission  
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications Commission